

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MACROPOINT, LLC
6050 Oak Tree Boulevard
Suite 150
Cleveland, Ohio 44131

Plaintiff

v.

FOURKITES, INC.
6033 North Sheridan Road
Unit 29G
Chicago, Illinois 60660

Defendant.

Civil Action No.: 1:15-cv-1002

Judge:

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff, MacroPoint, LLC (referred to herein as “MacroPoint”), brings this action against Defendant, FourKites, Inc. (referred to herein as “FourKites”), and hereby complains and avers as follows:

1. This is an action for injunctive and monetary relief to recover for the damage caused by and to prevent further damage arising from the unlawful and unauthorized use of MacroPoint’s intellectual property through the infringement of MacroPoint’s patent rights under 35 U.S.C. § 271 by Defendant. Specifically, MacroPoint complains and avers that Defendant infringes claims of United States Letters Patent No. 8,604,943, entitled, “Systems and Methods for Monitoring Location of Freight Carried by a Vehicle” (the ““943 Patent”).

THE PARTIES

2. MacroPoint is a limited liability company organized and existing under the laws of the State of Ohio, with a principal place of business at 6050 Oak Tree Boulevard, Suite 150, Cleveland, OH 44131. MacroPoint is a software and application developer that provides

solutions for operations such as location tracking, mobile communication, order updates, work activity updates, on-board diagnostic reporting, and text messaging. MacroPoint is the owner of the ‘943 Patent.

3. Upon information and belief, Defendant FourKites is a limited liability company existing under the laws of the State of Delaware with a principal place of business at 6033 North Sheridan Road, Unit 29G, Chicago, Illinois 60660.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this controversy concerning patent infringement pursuant to Title 35 U.S.C. § 271 and § 281 and Title 28 U.S.C. § 1331 and § 1338(a).

5. This Court has specific personal jurisdiction over Defendant FourKites because, among other things, FourKites has sold and continues to offer to sell products and services that infringe the ‘943 Patent in Ohio through publicly available websites and online retailers.

6. This Court has general personal jurisdiction over FourKites because, among other things, on information and belief, FourKites regularly solicits and transacts business in Ohio and in this judicial district, FourKites engages in a persistent course of conducting business in Ohio, and FourKites derives substantial revenue from goods and services sold in Ohio and this judicial district.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400.

RELEVANT FACTS

8. MacroPoint is the owner of the ‘943 Patent, which was duly and lawfully issued on December 10, 2013, to Bennett H. Adelson as the inventor. A true and correct copy of the ‘943 Patent is attached hereto as Exhibit A. MacroPoint is the owner of all right, title and

interest in the ‘943 Patent, including the right to sue and recover damages for infringement of the ‘943 Patent and obtain a preliminary or permanent injunction.

9. MacroPoint designs, develops, markets and sells software products and services that facilitate location tracking and management of freight in transit.

10. On information and belief, FourKites develops, offers for sale or sells software products and services that directly infringe, or that contribute to or induce infringement of one or more claims of the ‘943 Patent. The infringing products and services include a “FourKites Platform” and a “FourKites Driver Mobile” application. The FourKites Platform is designed for use with a computer, computing tablet device, or other similar computing devices that include a web-browser. The FourKites Driver Mobile application is designed for use with a cellular telephone, computing tablet device, or other similar mobile computing device.

11. On information and belief, FourKites offers services for sale through the FourKites Platform accessible at one or more website owned and controlled by FourKites, for example, <http://tracking.fourkites.com>. On information and belief, FourKites offers services for sale through the FourKites Driver Mobile application downloadable through two online marketplaces – “Google play” application store and “Apple iTunes” application store. A true and correct copy of the Google play application store webpage for the FourKites Driver Mobile application is attached as Exhibit B. A true and correct copy of the Apple iTunes application store webpage for the FourKites Driver Mobile application is attached as Exhibit C.

COUNT I

Infringement of the ‘943 Patent

12. MacroPoint incorporates by reference the allegations set forth in Paragraphs 1-11 of this Complaint as though fully set forth herein.

13. By making, using, offering to sell, and selling services through the FourKites Platform and FourKites Driver Mobile application in the United States, Defendant has and continues to directly and/or indirectly infringe one or more claims of the ‘943 Patent, in violation of 35 U.S.C. § 271.

14. Defendant will continue to infringe the ‘943 Patent unless enjoined by this Court.

15. The harm to MacroPoint within this judicial district and elsewhere in the United States resulting from the Defendant’s infringement of the ‘943 Patent set forth above is irreparable, continuing, and not fully compensable by money damages.

16. On information and belief, the Defendant has profited and will continue to profit by their infringing activities. MacroPoint has been damaged by Defendant’s infringing activities. The amount of monetary damages that MacroPoint has suffered by Defendant’s infringing acts set forth above cannot be determined without an accounting.

PRAYER FOR RELIEF

WHEREFORE, MacroPoint respectfully requests that this Court enter judgment in its favor as follows:

- a. Enjoin Defendant, and its officers, employees, servants, and agents, and all persons in active concert with any of them, against any further acts of direct or indirect infringement under 35 U.S.C. § 283, including without limitation making, using, offering for sale, and/or selling the infringing product and services.
- b. Order Defendant to pay, in accordance with 35 U.S.C. § 284, damages adequate to compensate MacroPoint, but in no event, less than a reasonable royalty for the use made of the invention, together with interest and costs.

- c. Find the infringement by Defendant to be willful, and order Defendant to pay three (3) times the amount of damages found or assessed, under 35 U.S.C. § 284.
- d. Find this to be an exceptional case under 35 U.S.C. § 285, and order Defendant to pay MacroPoint's attorneys' fees, expenses, and costs in this action.
- e. Grant MacroPoint such other and further relief as the Court may deem proper and just under the circumstances.

Dated: May 19, 2015

Respectfully submitted,

/s/Risto Pribisich

Risto Pribisich (0081758)

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MacroPoint, LLC

DEMAND FOR JURY TRIAL

Plaintiff MacroPoint, LLC hereby makes demand for a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues of this lawsuit.

Dated: May 19, 2015

Respectfully submitted,

/s/Risto Pribisich

One of the Attorneys for PLAINTIFF
MacroPoint, LLC